

By: Ellis

S.B. No. 1684

A BILL TO BE ENTITLED

AN ACT

relating to procedures applicable to an applicant entitled to habeas corpus under certain circumstances.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3, Article 11.07, Code of Criminal Procedure, is amended by adding Subsections (d-1) and (d-2) to read as follows:

(d-1) If the convicting court finds the applicant is entitled to relief based on evidence of actual innocence, or if the convicting court finds the applicant is entitled to relief based on findings of fact and conclusions of law stipulated to by the applicant and the attorney representing the state, the convicting court shall:

(1) vacate the order convicting the applicant;

(2) order the applicant's immediate release from custody; and

(3) as applicable, order the applicant's release from other conditions of confinement or supervision imposed as a result of the conviction.

(d-2) If the convicting court vacates the order convicting the applicant, as described by Subsection (d-1), the attorney representing the state may file a notice of appeal of the order vacating the conviction order not later than 30 days after the date of the entry of that order. On filing of a notice of appeal, the

1 judgment of the convicting court is stayed, and the court of
2 criminal appeals retains jurisdiction over the writ of habeas
3 corpus and may proceed in the same manner as the court otherwise
4 proceeds under this article.

5 SECTION 2. The changes in law made by this Act relating to
6 the application of writ of habeas corpus apply regardless of
7 whether the offense for which the applicant is in custody was
8 committed before, on, or after the effective date of this Act.

9 SECTION 3. This Act takes effect September 1, 2011.